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Return or restitution of cultural property to the countries of origin

Cyprus, Egypt, Georgia, Greece, Italy, Lebanon, Mongolia and Romania: draft resolution

Return or restitution of cultural property to the countries of origin

The General Assembly,

Reaffirming the relevant provisions of the Charter of the United Nations,

Recalling its resolutions 3026 A (XXVII) of 18 December 1972, 3148 (XXVIII) of 14 December 1973, 3187 (XXVIII) of 18 December 1973, 3391 (XXX) of 19 November 1975, 31/40 of 30 November 1976, 32/18 of 11 November 1977, 33/50 of 14 December 1978, 34/64 of 29 November 1979, 35/127 and 35/128 of 11 December 1980, 36/64 of 27 November 1981, 38/34 of 25 November 1983, 40/19 of 21 November 1985, 42/7 of 22 October 1987, 44/18 of 6 November 1989, 46/10 of 22 October 1991, 48/15 of 2 November 1993, 50/56 of 11 December 1995, 52/24 of 25 November 1997, 54/190 of 17 December 1999, 56/97 of 14 December 2001, 58/17 of 3 December 2003 and 61/52 of 4 December 2006,

Recalling also its resolution 56/8 of 21 November 2001, in which it proclaimed 2002 the United Nations Year for Cultural Heritage,

Recalling further the Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted at The Hague on 14 May 1954,[1] and the two Protocols thereto, adopted in 1954 and 1999,

Recalling the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted on 14 November 1970 by the General Conference of the United Nations Educational, Scientific and Cultural Organization,[2]

[1] United Nations, *Treaty Series*, vol. 249, No. 3511.
[2] Ibid., vol. 823, No. 11806.

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Recalling also the Convention concerning the Protection of the World Cultural and Natural Heritage, adopted on 16 November 1972 by the General Conference of the United Nations Educational, Scientific and Cultural Organization,[3]

Recalling further the Convention on Stolen or Illegally Exported Cultural Objects, adopted in Rome on 24 June 1995 by the International Institute for the Unification of Private Law,[4]

Taking note of the adoption of the Convention on the Protection of the Underwater Cultural Heritage by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 2 November 2001,[5] and its entry into force on 2 January 2009,

Noting the adoption of the Convention for the Safeguarding of the Intangible Cultural Heritage by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 17 October 2003[6] and its entry into force on 20 April 2006, and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 20 October 2005,[7] and its entry into force on 18 March 2007,

Noting also the adoption of the United Nations Convention on Jurisdictional Immunities of States and Their Property on 2 December 2004,[8] as it might apply to cultural property,

Recalling the Medellin Declaration for Cultural Diversity and Tolerance and the Plan of Action on Cultural Cooperation, adopted at the first Meeting of the Ministers of Culture of the Movement of Non-Aligned Countries, held in Medellin, Colombia, on 4 and 5 September 1997,[9] and the adoption of the Declaration concerning the International Destruction of Cultural Heritage[6] by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 17 October 2003,

Noting the adoption of the Universal Declaration on Cultural Diversity and the Action Plan for its implementation, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 2 November 2001,[5]

Welcoming the report of the Secretary-General submitted in cooperation with the Director-General of the United Nations Educational, Scientific and Cultural Organization,[10]

Aware of the importance attached by some countries of origin to the return of cultural property that is of fundamental spiritual, historical and cultural value to

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[3] Ibid., vol. 1037, No. 1511.

[4] Available from www.unidroit.org.

[5] See United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Thirty-first Session, Paris, 15 October-3 November 2001*, vol. 1 and corrigendum: *Resolutions*.

[6] Ibid., *Thirty-second Session, Paris, 29 September-17 October 2003*, vol. 1: *Resolutions*.

[7] Ibid., *Thirty-third Session, Paris, 3-21 October 2005*, vol. 1: *Resolutions*.

[8] Resolution 59/38, annex.

[9] A/52/432, annexes I and II.

[10] See A/64/303.

them, so that they may constitute collections representative of their cultural heritage,

Expressing concern about the illicit traffic in cultural property and its damage to the cultural heritage of nations,

Reaffirming the necessity of international cooperation in preventing and combating all aspects of trafficking in cultural property, and noting that such cultural property is especially transferred through licit markets, such as auctions, including through the Internet,

Expressing concern about the loss, destruction, removal, theft, pillage, illicit movement or misappropriation of and any acts of vandalism or damage directed against cultural property, in particular in areas of armed conflict, including territories that are occupied, whether such conflicts are international or internal,

Recognizing the importance of cooperation among States in the fight against the illegal handling of cultural property and illegal removal from the countries of origin, through mutual legal assistance in criminal matters and within the existing legal framework,

Recalling Security Council resolution 1483 (2003), adopted on 22 May 2003, in particular paragraph 7 relating to the restitution of the cultural property of Iraq,

1. *Commends* the United Nations Educational, Scientific and Cultural Organization and the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation on the work they have accomplished, in particular through the promotion of bilateral negotiations, for the return or restitution of cultural property, the preparation of inventories of movable cultural property and the implementation of the Object-ID standard related thereto, as well as for the reduction of illicit traffic in cultural property and the dissemination of information and tools to the public, institutions, Member States and others, and encourages the continuation of such endeavours;

2. *Takes note* of the hosting by the United Nations Educational, Scientific and Cultural Organization of regional training sessions and international meetings, such as the 2008 Athens International Conference on the Return of Cultural Objects to their Countries of Origin and the 2008 Expert Meeting and Extraordinary Session of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation in Seoul, Republic of Korea;

3. *Calls upon* all relevant bodies, agencies, funds and programmes of the United Nations system and other relevant intergovernmental organizations to work in coordination with the United Nations Educational, Scientific and Cultural Organization, within their mandates and in cooperation with Member States, in order to continue to address the issue of return or restitution of cultural property to the countries of origin and to provide appropriate support accordingly;

4. *Reaffirms* the importance of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,[2] as well as the Convention on Stolen or Illegally Exported Cultural Objects of the International Institute for the Unification of Private Law,[4] and of their

implementation, and invites Member States that have not already done so to consider becoming parties to these Conventions;

5. *Recognizes* the importance of the Convention on the Protection of the Underwater Cultural Heritage[5] and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions,[7] and invites Member States that have not already done so to consider becoming parties to these Conventions;

6. *Also recognizes* the importance of the United Nations Convention on Jurisdictional Immunities of States and Their Property,[8] notes that this Convention has still not entered into force, and invites Member States that have not already done so to consider becoming parties to the Convention;

7. *Reaffirms* the importance of the principles and provisions of the Convention for the Protection of Cultural Property in the Event of Armed Conflict,[1] and of their implementation, and invites Member States that have not already done so to become parties to the Convention;

8. *Also reaffirms* the importance of the Second Protocol to the Convention, adopted at The Hague on 26 March 1999, and of its implementation, and invites all States parties to the Convention that have not already done so to consider becoming parties to the Second Protocol;

9. *Welcomes* the most recent efforts made by the United Nations Educational, Scientific and Cultural Organization for the protection of the cultural heritage of countries in conflict, including the safe return to those countries of cultural property and other items of archaeological, historical, cultural, rare scientific and religious importance that have been illegally removed, and calls upon the international community to contribute to these efforts;

10. *Urges* Member States to introduce effective national and international measures to prevent and combat illicit trafficking in cultural property, including publicizing legislation and offering special training for police, customs and border services;

11. *Invites* Member States, in cooperation with the United Nations Educational, Scientific and Cultural Organization, to continue to draw up systematic inventories of their cultural property, as well as to work towards the creation of a database of their national cultural legislation, in particular in electronic format;

12. *Recognizes* the advancement of the Database of National Cultural Heritage Laws of the United Nations Educational, Scientific and Cultural Organization, which includes legislation from 176 Member States, and invites Member States to provide their legislation in electronic format for inclusion in the Database if they have not yet done so, to provide regular updates to the Database and to promote it;

13. *Reaffirms* the efforts of the United Nations Educational, Scientific and Cultural Organization to promote the use of identification and inventory systems, in particular the application of the Object-ID standard, and to encourage the linking of identification systems and existing databases, including the one developed by INTERPOL, to allow for the electronic transmission of information in order to reduce illicit trafficking in cultural property, and encourages the United Nations Educational, Scientific and Cultural Organization to make further efforts in this regard in cooperation with Member States, where appropriate;

14. *Notes* that the Statutes of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation include mediation and conciliation processes, and invites Member States to consider the possibility of using such processes as appropriate;

15. *Takes note* of the recommendation of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation made during its extraordinary session in Seoul, Republic of Korea, in November 2008;

16. *Notes* the Model Export Certificate for Cultural Objects developed by the United Nations Educational, Scientific and Cultural Organization and the World Customs Organization as a tool to combat illicit trafficking in cultural property, and invites Member States to consider adopting the Model Export Certificate as their national export certificate, in accordance with domestic law and procedures;

17. *Notes* the decision taken in resolution 41, adopted on 23 October 2009[11] by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its thirty-fifth session;

18. *Recognizes* the public awareness and increased mobilization and action in favour of heritage values that was achieved in 2002, the United Nations Year for Cultural Heritage, and calls upon the international community and the United Nations to continue to cooperate with the United Nations Educational, Scientific and Cultural Organization on the basis of that work;

19. *Welcomes* the endorsement of the International Code of Ethics for Dealers in Cultural Property by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 16 November 1999,[12] which was adopted in January 1999 by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, and invites those who deal with trade in cultural property and their associations, where they exist, to encourage the implementation of the Code;

20. *Recognizes* the importance of the creation, by the General Conference of the United Nations Educational, Scientific and Cultural Organization, of the International Fund for the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, launched in November 2000, and encourages the United Nations Educational, Scientific and Cultural Organization to continue to promote the Fund and render it operational;

21. *Requests* the Secretary-General to cooperate with the United Nations Educational, Scientific and Cultural Organization in its efforts to bring about the attainment of the objectives of the present resolution;

22. *Also requests* the Secretary-General, in cooperation with the Director-General of the United Nations Educational, Scientific and Cultural Organization, to submit to the General Assembly at its sixty-seventh session a report on the implementation of the present resolution;

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[11] See United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Thirty-fifth Session, Paris, 6-23 October 2009*, vol. 1: *Resolutions*.

[12] Ibid, *Thirtieth Session, Paris, 26 October-17 November 1999*, vol. 1: *Resolutions*.

23. *Decides* to include in the provisional agenda of its sixty-seventh session the item entitled "Return or restitution of cultural property to the countries of origin".